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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/670,126

Applicant(s)

PETTAY ET AL.

Examiner

James S. Wozniak

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. In response to the office action from 6/25/2007, the applicant has submitted an amendment, filed 10/25/2007, amending independent claims 1, 23, 44, 68, and 69 to include a limitation regarding a time displacement time stamp, while arguing to traverse the art rejection based on the added limitations (*Amendment, Pages 14-15*). The applicant's arguments have been fully considered but are moot with respect to the new grounds of rejection, necessitated by the amended claims and further in view of Brockman et al (*U.S. Patent: 5,826,240*).
2. In response to the amended specification, the examiner has withdrawn the previous objection to the disclosure.
3. In response to the amendment of claims 45-46, the examiner has withdrawn the previous objection directed to minor informalities.
4. In response to the previous Double Patenting rejection (*Amendment, Page 13*), the applicant has amended the scope of the claimed invention, thus necessitating a new obviousness-type double patenting rejection.

5. In response to the amended claims, the examiner has withdrawn the previous 35 U.S.C. 112, second paragraph rejection.

6. The applicant argues that amended claim 68 overcomes the previous 35 U.S.C. 101 rejection. Although the amended claim now includes a “computer” readable medium, the body of the claim is described in terms of the program (i.e., “instructions for”) and not the method that is performed when the computer readable storing or encoded with the computer executable program is executed by a computer to enable the program’s functionality to be realized (i.e., --A computer readable medium storing computer executable instructions, which when executed by a computer, enable the computer to perform a method comprising--). Thus, since the body of the claim is directed to the program, the computer readable medium does not encode or store the program, the program is recited merely as instructions and not a program or computer executable instructions, and the programs functionality is not realized in the claimed invention, the previous 35 U.S.C. 101 rejection is maintained.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined

application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-19 and 23-32 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-31 of copending Application No. 10/669,089 in view of Brockman et al (*U.S. Patent: 5,826,240*). Although the conflicting claims are not identical, they are not patentably distinct from each other because they both refer to the same process of conducting a voice interaction between an agent and a client, evaluating the voice interaction using a speech recognizer, and determining whether an agent has followed the script. Although the present application further includes the use of time

displacement time stamps such additional claim language is obvious because Brockman teaches that recording time stamps during a seller-client interaction that indicate an elapsed time point of a particular step (*i.e., panel*) in an interaction (*i.e., time displacement*) as well as the duration of the interaction step (*Col. 7, Lines 29-49; Col. 6, Lines 1-8; and speech recognition processing means, Col. 5, Lines 47-55*) provide the benefit of permitting a manager to confirm with reasonable confidence that the seller is performing appropriate steps at specific times (*Brockman, Col. 7, Lines 35-39*).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. **Claim 68** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 68 is drawn to a "instructions" *per se*, not executable by a computer (*see specification page 20*) and not defined in terms of the method that is performed when the computer readable *storing or encoded* with the computer executable program is executed by a computer to enable the program's functionality to be realized (*i.e., --A computer readable medium storing computer executable instructions, which when executed by a computer, enable the computer to perform a method comprising--*), as recited in the preamble and as such is non-

statutory subject matter. See MPEP § 2106.IV.B.1.a. Data structures not claimed as embodied in *computer readable media* are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed *computer readable medium* encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs claimed as computer listings *per se*, i.e., the descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claims 1-5, 8-10, 12-24, 28, 30-38, and 41-42** are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (*U.S. Patent: 6,567,787*) in view of Brockman et al (*U.S. Patent: 5,826,240*).

With respect to **Claim 1**, Walker discloses:

Conducting at least one voice interaction between the at least one agent and the at least one client, wherein the at least one agent follows the at least one script via at least one of a plurality of panels (*recording a spoken interaction between a customer and a service agent, wherein the agent reads from a script to conduct the interaction, Col. 7, Lines 10-60; and evaluating an interaction for a plurality of voice message segments, Col. 5, Line 46- Col. 6, Line 39; and Fig. 6*);

Entering information by the at least one agent according to response obtained from the at least one client during the voice interaction (*agent enters prompt information into the system based on client response, Col. 11, Lines 7-44*);

Evaluating the at least one voice interaction with at least one automatic speech recognition component adapted to analyze the at least one voice interaction (*interaction evaluation through speech recognition, Col. 7, Line 45- Col. 8, Line 15; and Col. 13, Lines 4-27*); and

Determining whether the at least one agent has adequately followed the at least one script by using the evaluated at least one voice interaction (*evaluating the interaction through speech recognition and determining if the script was followed according to various evaluation criteria, Col. 6, Lines 24-39; and Col. 7, Line 45- Col. 8, Line 15*).

Walker does not specifically disclose assigning time displacement timestamps to a plurality of prompt message panels during a voice interaction, however, Brockman recites a means for recording time stamps during a seller-client interaction that indicate an elapsed time point of a particular step (*i.e., panel*) in an interaction (*i.e., time displacement*) as well as the duration of the interaction step (*Col. 7, Lines 29-49; Col. 6, Lines 1-8; and speech recognition processing means, Col. 5, Lines 47-55*).

Walker and Brockman are analogous art because they are from a similar field of endeavor in customer service analysis systems using speech recognition. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to modify the teachings of Walker with the time stamps taught by Brockman in order to permit a manager to confirm with reasonable confidence that the seller is performing appropriate steps at specific times (*Brockman, Col. 7, Lines 35-39*).

With respect to **Claim 2**, Walker discloses the method wherein the live agent is a telemarketing agent (*Col. 5, lines 40-45*).

With respect to **Claim 3**, Walker discloses the method wherein the script includes an offer of goods (*figure 6 and Col. 11, lines 30-44*).

With respect to **Claim 4**, Walker discloses the method wherein said voice interaction is carried on a communications network (*Col. 3, Lines 40-56; and Col. 5, Lines 41-45*).

With respect to **Claim 5**, Walker discloses the method wherein said communications network is a publicly switched telephone network (*telephone line, Col. 3, line 52; and Col. 5, Lines 41-45*).

With respect to **Claim 8**, Walker discloses the method the voice interaction is a telephone call (*Col. 5, lines 40-45*).

With respect to **Claim 9**, Walker discloses the method wherein said live customer client initiates said telephone call (*telephone ordering, Col. 5, lines 40-45 with Col. 12, lines 63-65*).

With respect to **Claim 10**, Walker discloses the method wherein the telephone call is initiated by an entity other than the at least one client (*telemarketing, Col. 5, Lines 40-45*).

With respect **Claim 12**, Walker discloses the method further comprising the step of: performing an action based (*bonus earned*) upon a determination obtained from said evaluating step (*Col. 6, lines 24-39*).

With respect to **Claim 13**, Walker discloses the method but wherein performing an action comprises transmitting a signal (*audio signal transmitted*) to said live agent corresponding to said determination (*Col. 9, line 59 – Col. 10, line 5*).

With respect to **Claim 14**, Walker discloses:

Performing an action comprises transmitting a signal to a reviewing authority corresponding to said determination (*billing system in communication with an operator database, Col. 6, Lines 24-39*).

With respect to **Claim 15**, Walker recites:

Performing an action comprises causing an entry to be made in a script compliance incentive system (*operator database, Col. 5, Line 46- Col. 6, Line 39*).

With respect to **Claim 16**, Walker discloses the method comprising: reviewing the determination of whether the at least one agent has adequately followed the at least one script (*bonus based on script compliance percentage, Col. 6, lines 24-28*).

With respect to **Claim 17**, Walker discloses the method wherein the score (*percentage; Col. 6, lines 24-28*) is assigned by the automatic speech recognition component (*SCRAPI; Col. 8, lines 6-11*).

With respect to **Claim 18**, Walker discloses:

Evaluating a plurality of panels (*evaluating an interaction for a plurality of voice messages, Col. 5, Line 46- Col. 6, Line 39; and Fig. 6*).

With respect to **Claim 19**, Walker discloses:

Assigning a respective score to each one of the panels (*score associated with a recited voice message, Col. 6, Lines 24-39*).

With respect to **Claim 20**, Walker further discloses:

Comparing data representing an actual duration of at least one interaction, wherein the at least one agent reads at least one script to the at least one client, to data representing an expected duration parameter associated with the at least one interaction (*time period during which a message should be spoken by an agent, Col. 8, Line 63- Col. 9, Line 15*).

With respect to **Claims 21-22**, Walker further discloses:

Disposition at least one interaction, wherein the at least one agent reads at least one script to the at least one client, based at least in part on a comparison of data representing an actual duration of the at least one interaction to data representing an expected duration parameter associated with the at least one interaction (*determining if a displayed message is recited in a specific duration and if not providing a reprompt to an agent, Col. 8, Line 13- Col. 9, Line 35*).

Claim 23 contains subject matter similar to Claims 1 and 12, and thus, is rejected for the same reasons. Walker also discloses system implementation in a telemarketing environment (*Col. 5, Lines 41-45*).

With respect to **Claim 24**, Walker discloses:

The communication network comprises at least one long distance telephone network (*remote communication media comprising telephone line; and telemarketing, Col. 3, Lines 40-56; and Col. 5, Lines 41-45*).

Claim 28 contains subject matter similar to Claim 2, and thus, is rejected for the same reasons.

With respect to **Claim 30**, Walker further discloses:

Transmitting at least one signal to the at least one agent (*transmitting a message to an agent, Col. 13, Lines 4-27*).

Claim 31 contains subject matter similar to Claim 14, and thus, is rejected for the same reasons.

Claim 32 contains subject matter similar to Claim 15, and thus, is rejected for the same reasons.

With respect to **Claim 33**, Walker discloses:

Identifying at least one instance of non-compliance with the script, wherein the agent did not adequately follow the script during at least one interaction (*identifying incorrectly spoken messages, Col. 6, Lines 24-39; and Col. 13, Lines 11-27*).

With respect to **Claim 34**, Walker further discloses:

Obtaining a voice record of at least a portion of at least one voice interaction (*recorded speech from an agent, Col. 7, Lines 45-60*).

With respect to **Claim 35**, Walker further discloses:

Obtaining at least a portion of a voice record of at least a portion of a suggested interaction that is related to the at least one instance of non-compliance (*obtaining a prompt message for comparison with a voice interaction, Col. 7, Line 46- Col. 8, Line 15; and Col. 9, Lines 16-35*).

With respect to **Claim 36**, Walker further discloses:

Obtaining at least a portion of a pre-recorded voice record (*obtained voice is recorded prior to analysis, Col. 4, Lines 34-55; and Col. 7, Line 45- Col. 8, Line 15*).

With respect to **Claim 37**, Walker further discloses:

Recording at least a portion of a second interaction as the further voice record after identifying that at least one instance of non-compliance (*obtaining additional messages spoken incorrectly in determining an appropriate action, Col. 6, Lines 24-39*).

With respect to **Claim 38**, Walker further discloses:

Providing at least the portion of the voice record of the at least one voice interaction and the voice record of the suggested interaction to the agent (*differences between agent interaction and a suggested interaction, Col. 13, Lines 11-27*).

With respect to **Claim 41**, Walker further discloses:

Directing the agent to remedial materials related to improving performance of the agent (*directing an agent's attention to correct prompts/phrases/words that will improve performance, Col. 13, Lines 4-27; and Col. 16, Lines 29-33*).

With respect to **Claim 42**, Walker further discloses:

Providing the agent with data representing at least one aspect in which the agent's handling of at least one interaction was deficient (*Col. 13, Lines 4-27; and Col. 16, Lines 29-33*).

12. **Claims 6-7, 25-27, and 29** are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al in view of Brockman et al and further in view of Stuart et al (*U.S. Patent: 6,868,154*).

With respect to **Claim 6**, Walker in view of Brockman discloses the method/system for evaluating a voice interaction between a telemarketing agent and a customer, as applied to Claim 1. Walker in view of Brockman does not specifically suggest communication over the Internet, however, Stuart recites communications between a calling party and a service agent, conducted over the Internet (*Col. 6, Lines 52-64*).

Walker, Brockman, and Stuart are analogous art because they are from a similar field of endeavor in customer service systems utilizing speech recognition. It would have been obvious to a person of ordinary skill in the art, at the time of invention, to modify the teachings of Walker in view of Brockman with Internet-based customer communication scheme taught by Stuart in order to expand upon the available networks taught by Walker, thus providing an alternate and well-known means of connecting a calling party to an agent (*Stuart, Col. 6, Lines 43-64*).

With respect to **Claim 7**, Stuart further discloses wireless communication between a calling party and an agent (*Col. 6, Lines 52-64; and Col. 11, Lines 45-47*).

Claim 25 contains subject matter similar to Claim 6, and thus, is rejected for the same reasons.

With respect to **Claim 26**, Stuart further discloses workstations for a plurality of agents
(*Col. 6, Line 52- Col. 7, Line 30*).

With respect to **Claim 27**, Stuart further discloses an agent input device for
communicating over a telephone network and a workstation terminal (*Col. 6, Lines 52-64*).

With respect to **Claim 29**, Stuart further discloses a plurality of customer service agents
(*Col. 6, Lines 43-64*).

13. **Claim 11** is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al in
view of Brockman et al and further in view of Rtischev et al (*U.S. Patent: 5,634,086*).

With respect to **Claim 11**, Walker in view of Brockman et al discloses the method/system
for evaluating a voice interaction between an agent and a customer utilizing speech recognition,
as applied to Claim 1. Although Walker discloses comparison of a spoken input to a vocabulary
containing words and phrases (*Col. 7, Line 66- Col. 8, Line 15*) and conversion of an input audio
signal (*Col. 4, Lines 23-33*), Walker in view of Brockman et al does not explicitly teach the
conversion of input speech into a digital signal comprising at least one spectral representation,
however, Rtischev discloses such a conversion process:

Converting data representing the voice interaction into a digital signal comprising a
spectral representation of the voice interaction (*Col. 1, Lines 44-54; Col. 4, Lines 51-58; and*
Col. 5, Lines 4-27);

Comparing the digital signal to a reference standard comprising a known vocabulary
(*Col. 5, Lines 4-27*); and

Matching the digital signal to words and phrases contained in the reference standard (*Col. 5, Line 4- Col. 6, Line 5*).

Walker, Brockman and Rtischev are analogous art because they are from a similar field of endeavor in recognizing speech corresponding to a script reading. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to modify the teachings of Walker in view of Brockman et al with the speech input conversion means taught by Rtischev in order to provide pre-processing used to implement speech recognition in Walker (*Walker Col. 7, Line 66- Col. 8, Line 15*).

14. **Claims 39 and 43** are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al in view of Brockman et al and further in view of Blair (*U.S. Patent: 7,203,285*).

With respect to **Claim 39**, Walker in view of Brockman discloses the method/system for evaluating a voice interaction between an agent and a customer utilizing speech recognition, as applied to Claim 35. Walker in view of Brockman does not specifically suggest that given and suggested voice interactions are converted to a different format, however Blair discloses converting such voice interactions into a GUI screen format (*Col. 6, Lines 37-46; and Col. 12, Line 56- Col. 13, Line 12*).

Walker, Brockman, and Blair are analogous art because they are from a similar field of endeavor in customer/agent interaction utilizing speech recognition. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to modify the teachings of Walker in view of Brockman with the fault-finding GUI taught by Blair in order to better improve business processes, train agents, and identify problems (*Blair, Col. 3, Lines 31-35*).

With respect to **Claim 43**, Blair discloses the GUI as applied to Claim 39 and further notes that mistakes in a call flow are highlighted (*Col. 5, Lines 15-19*).

15. **Claim 40** is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al in view of Brockman et al and further in view of Macleod Beck et al (*U.S. Patent: 6,910,072*).

With respect to **Claim 40**, Walker in view of Brockman discloses the method/system for evaluating a voice interaction between an agent and a customer utilizing speech recognition, as applied to Claim 35. Walker in view of Brockman does not specifically suggest a means for notifying an agent of performance via e-mail, however Macleod Beck discloses a means for emailing performance review data to an agent (*Col. 29, Lines 26-46*).

Walker, Brockman, and Macleod Beck are analogous art because they are from a similar field of endeavor in customer service systems utilizing speech recognition. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to modify the teachings of Walker in view of Brockman with the email means taught by Macleod Beck in order to provide a means for directly providing an activity review that is only accessible by the intended agent (*Macleod Beck, Col. 29, Lines 26-46*).

16. **Claims 44-50, 52-54, 56-58, 62, 64, and 67-69** are rejected under 35 U.S.C. 103(a) as being unpatentable over Scarano et al (*U.S. Patent: 7,076,427*) in view of Brockman et al (*U.S. Patent: 5,826,240*).

With respect to **Claims 44 and 69**, Scarano discloses:

Identifying at least one interaction handled by at least one agent, which interaction is deficient in at least one aspect (*identifying if a desired word/phrase/sequence is not detected, Col. 8, Lines 58-67*);

Obtaining a voice record of at least a portion of the at least one interaction (*indexed voice interaction, Col. 11, Lines 1-62; Col. 13, Lines 7-19*);

Obtaining a further voice record of at least a portion of at least a further interaction in which the at least one aspect is not deficient (*script adherence monitoring used to identify the presence of required statements, Col. 8, Lines 58-67; and Col. 9, Lines 22-32*); and

Transmitting data representing at least the portions of the voice record and the further voice record to the at least one agent (*transmitting indexed call data and associated evaluations to a customer service representative client workstation, Col. 3, Lines 11-44; and Col. 11, Lines 1-62*).

Scarano does not specifically disclose assigning time displacement timestamps to a agent-client interaction, however, Brockman recites a means for recording time stamps during a seller-client interaction that indicate an elapsed time point of a particular step (*i.e., panel*) in an interaction (*i.e., time displacement*) as well as the duration of the interaction step (*Col. 7, Lines 29-49; Col. 6, Lines 1-8; and speech recognition processing means, Col. 5, Lines 47-55*).

Scarano and Brockman are analogous art because they are from a similar field of endeavor in customer service analysis systems using speech recognition. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to modify the teachings of Scarano with the time stamps taught by Brockman in order to permit a manager to

confirm with reasonable confidence that the seller is performing appropriate steps at specific times (*Brockman, Col. 7, Lines 35-39*).

With respect to **Claim 45**, Scarano further recites:

Identifying at least one QA-related parameter applicable to at least one interaction involving the at least one agent (*quality control speech monitoring, Col. 10, Lines 33-46*).

With respect to **Claim 46**, Scarano further discloses:

Analyzing the at least one interaction against the at least one QA-related parameter (*analyzing a voice interaction for the presence of required statements, Col. 9, Lines 22-32; and Col. 10, Lines 33-46*).

With respect to **Claim 47**, Scarano further discloses:

Identifying at least one interaction wherein the at least one agent does not comply with at least part of a pre-defined script governing the at least one interaction (*identifying required statements as a part of script adherence monitoring, Col. 9, Lines 22-32; and Col. 10, Lines 33-46*).

With respect to **Claim 48**, Scarano further discloses:

Identifying at least one interaction wherein the at least one agent fails to correctly enter data provided by a third party into a computer based system (*order validation, Col. 10, Lines 33-46*).

With respect to **Claim 49**, Scarano further discloses:

Identifying at least one interaction wherein the at least one agent provides an incorrect response to a question from a third party (*compliance assurance in a customer service environment, Col. 10, Lines 19-46*).

With respect to **Claim 50**, Scarano further discloses:

Recording at least a portion of at least one interaction processed by at least one agent physically located at a call center (*call center having customer service representative (CSR) workstations, Col. 3, Lines 11-44*).

With respect to **Claim 52**, Scarano further discloses:

Obtaining a further voice record includes obtaining at least a portion of a pre-recorded interaction (*stored call audio data, Col. 7, Lines 28-35; and Col. 12, Lines 6-18*).

With respect to **Claim 53**, Scarano further discloses:

Accessing at least one data store containing data representing at least respective portions of a plurality of pre-recorded interactions (*accessing recorded audio files on a server, Col. 11, Line 12- Col. 12, Line 18*).

With respect to **Claim 54**, Scarano further discloses:

Recording at least a portion of a further interaction occurring subsequently to the at least one interaction (*multiple indexed voice interaction portions, Col. 9, Lines 9-21*).

With respect to **Claim 56**, Scarano further shows:

Transmitting to the at least one agent at least one screen shot representation of a computer screen related to the at least one interaction (*Fig. 17*).

With respect to **Claim 57**, Scarano further discloses:

Transmitting to the at least one agent data representing at least a portion of a pre-defined script with which the at least one agent failed to comply (*script adherence analysis, Col. 10, Lines 33-46; and Fig. 17*).

With respect to **Claim 58**, Scarano further discloses:

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Transmitting to the at least one agent data representing information entered incorrectly by the at least one agent into a computer-based system (*order validation and provided call details, Col. 10, Lines 33-46; and Fig. 17*).

With respect to **Claim 62**, Scarano further discloses:

Converting the voice record into a format suitable for transmission to at least one agent physically located in a call center (*audio signal conversion, Col. 11, Lines 12-38*).

Claim 64 contains subject matter similar to Claim 62, and thus, is rejected for the same reasons.

With respect to **Claim 67**, Scarano further discloses:

Accessing a data store adapted to correlate respective portions of a pre-defined script governing at least a portion of the at least one interaction to respective fields in the data store that store respective suggested voice records corresponding to the respective portions of the script (*indexed audio recordings/script adherence, Col. 9, Line 22- Col. 10, Line 46*).

With respect to **Claim 68**, Scarano in view of Brockman discloses the agent evaluation method, as applied to Claim 44, wherein Scarano discloses that such a method can be implemented as a program on a computer, which would inherently require some type of memory for program storage (*Col. 8, Lines 58-67*).

17. **Claims 51, 63, and 65** are rejected under 35 U.S.C. 103(a) as being unpatentable over Scarano et al in view of Brockman et al and further in view of Eilbacher et al (*U.S. Patent: 6,724,887*).

With respect to **Claim 51**, Scarano in view of Brockman discloses the method/system for evaluating a voice interaction between an agent at a call center and a customer utilizing speech recognition, as applied to Claim 50. Although well known in the art, Scarano does not explicitly disclose that an agent may be located remotely from a call center, however, Eilbacher discloses such a location of a call agent (*Col. 6, Lines 42-49*).

Scarano, Brockman, and Eilbacher are analogous art because they are from a similar field of endeavor in customer service analysis systems. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to modify the teachings of Scarano in view of Brockman with the remote agent location taught by Eilbacher in order to expand the range and number of available call agents using a well-known remote agent configuration that is interchangeable with a in-house agent (*Eilbacher, Col. 6, Lines 42-49*).

Claims 63 and 65 contain subject matter similar to Claims 51 and 62, and thus, are rejected for the same reasons.

18. **Claims 55 and 66** are rejected under 35 U.S.C. 103(a) as being unpatentable over Scarano et al in view of Brockman et al and further in view of Macleod Beck et al (*U.S. Patent: 6,910,072*).

With respect to **Claim 55**, Scarano in view of Brockman discloses the method/system for evaluating a voice interaction between an agent and a customer utilizing speech recognition, as applied to Claim 44. Scarano in view of Brockman does not specifically suggest a means for notifying an agent of performance via e-mail, however Macleod Beck discloses a means for emailing performance review data to an agent (*Col. 29, Lines 26-46*).

Scarano, Brockman, and Macleod Beck are analogous art because they are from a similar field of endeavor in customer service systems utilizing speech recognition. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to modify the teachings of Scarano in view of Brockman with the email means taught by Macleod Beck in order to provide a means for directly providing an activity review that is only accessible by the intended agent (*Macleod Beck, Col. 29, Lines 26-46*).

Claim 66 contains subject matter similar to Claim 55 and 62, and thus is rejected for the same reasons.

19. **Claims 59-61** are rejected under 35 U.S.C. 103(a) as being unpatentable over Scarano et al in view of Brockman et al and further in view of McIllwaine et al (*U.S. Patent: 6,324,282*).

With respect to **Claims 59-61**, Scarano in view of Brockman discloses the method/system for evaluating a voice interaction between an agent and a customer utilizing speech recognition, as applied to Claim 44. Scarano in view of Brockman does not specifically suggest providing remedial training documents/programs to an agent. McIllwaine, however, discloses a method/system for QA monitoring that directs agents to specific training materials and software based on monitoring results (*Col. 5, Line 52- Col. 6, Line 39; Col. 7, Lines 56-65; and Col. 10, Lines 4-14*).

Scarano, Brockman, and McIllwaine are analogous art because they are from a similar field of endeavor in customer service analysis systems. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to modify the teachings of Scarano in view of Brockman with the training material distribution means taught by McIllwaine in order to

provide customized training to agents most in need of training (*McIllwaine, Col. 10, Lines 33-58*).

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Brockman et al (*U.S. Patent: 6,125,356*)- discloses a system that ensures that a seller follows scripts using time stamps.

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22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Wozniak whose telephone number is (571) 272-7632.

The examiner can normally be reached on M-Th, 7:30-5:00, F, 7:30-4, Off Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Edouard can be reached at (571) 272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James S. Wozniak
12/12/2007


PATRICK N. EDOUARD
SUPERVISORY PATENT EXAMINER